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RECEIVED
SEP 18 2006
CHAMBERS OF
JUDGE ROBERT P. PATTERSON

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VIA FACSIMILE

September 18, 2006

MEMO ENDORSED

Honorable Robert P. Patterson, Jr.
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2550
New York, New York 10007-1312

Re: Person v. Google, 06-CV-4683 (RPP)

Dear Judge Patterson:

We have received Mr. Person's letter to you of September 15th in which he states that he will be filing an Amended Complaint. While we do not often take to writing informal letters to the Court, we thought it appropriate to respond and suggest the following.

First, the parties should await the Court's decision on the original motion to dismiss before any other activity in the case is undertaken. The Court's analysis may resolve various issues Mr. Person may seek to raise in his Amended Complaint, including whether this action is properly venued here. With the benefit of the Court's decision, Mr. Person may determine that his suggested amendments are futile or, perhaps, he might seek to amend his Complaint further. In any event, acting on a unilateral amendment at this time, before receipt of the Court's analysis, makes no sense.

Second, consistent with the Stipulation and Order to which the parties agreed and the Court so ordered at the outset of the case, any further briefing or other activity in connection with the motion for a preliminary injunction should be stayed until the motion to dismiss - including any further motion to dismiss an Amended Complaint - has been decided by the Court. If the operative complaint fails to state a claim, as we have argued, then no preliminary injunction can be granted. In any event, a determination whether there is a case at all will be important in evaluating whether the plaintiff has any chance for success, let alone a probability of success on the merits.

U.S. DISTRICT COURT
FILED
SEP 20 2006
S.D. OF N.Y.

Application granted
So ordered
Robert P. Patterson
U.S.D.J.
9/18/06

Returned to chambers for scanning on 9-21-06

Scanned by chambers on __________.

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Third, despite Mr. Person's plea of urgency, there is no emergency here. As Mr. Person's own campaign web site discloses, at http://www.carlperson4nyag.com/, he is not on the ballot for New York State Attorney General. Nothing he has accused Google of doing is likely to cause him any harm (and certainly not irreparable harm). Accordingly, there is no reason why the parties cannot await a decision from the Court.

For all these reasons, Google respectfully requests that all further proceedings in the case await the Court's decision on the motion to dismiss.

Sincerely,

Jonathan M. Jacobson

Jonathan M. Jacobson

cc: Carl Person, Esq. (via facsimile)